

such regulations as each may prescribe, may exempt an air traffic controller having exceptional skills and experience as a controller from automatic separation until that controller becomes 61 years of age.

(d) When a department or agency lacks authority and wishes to secure an exemption from automatic separation for one of its employees other than a Presidential appointee, beyond the age(s) provided by statute, i.e., age 60 for a law enforcement officer, firefighter, nuclear materials courier, or customs and border protection officer, and age 61 for an air traffic controller, the department or agency head shall submit a recommendation to that effect to OPM.

(1) The recommendation shall contain:

(i) A statement that the employee is willing to remain in service;

(ii) A statement of facts tending to establish that his/her retention would be in the public interest;

(iii) The period for which the exemption is desired, which period may not exceed 1 year; and,

(iv) The reasons why the simpler method of retiring the employee and immediately reemploying him or her is not being used.

(2) The recommendation shall be accompanied by a medical certificate showing the physical fitness of the employee to perform his or her work.

(e) OPM may approve an exemption only before the automatic separation date applicable to the employee. For this reason, the department or agency shall forward the recommendation to OPM at least 30 days before this separation date.

[76 FR 41997, July 18, 2011]

#### **§ 831.503 Retirement based on involuntary separation.**

(a) *General.* An employee who would otherwise be eligible for retirement based on involuntary separation from the service is not entitled to an annuity under section 8336(d)(1) of title 5, United States Code, if the employee has declined a reasonable offer of another position.

(b) *Criteria for reasonable offer.* For the purposes of determining entitlement to annuity based on such invol-

untary separation, the offer of a position must meet all of the following conditions to be considered a reasonable offer:

(1) The offer must be made in writing;

(2) The employee must meet established qualification requirements; and

(3) The offered position must be—

(i) In the employee's agency, including an agency to which the employee with his or her function is transferred in a transfer of functions between agencies;

(ii) Within the employee's commuting area as defined in § 831.1202 of this part, unless geographic mobility is a condition of the employee's employment;

(iii) Of the same tenure and work schedule; and

(iv) Not lower than the equivalent of two grades or pay levels below the employee's current grade or pay level, without consideration of the employee's eligibility to retain his or her current grade or pay under part 536 of this chapter or other authority. In movements between pay schedules or pay systems, the comparison rate of the grade or pay level that is two grades below that of the current position will be compared with the comparison rate of the grade or pay level of the offered position. For this purpose, "comparison rate" has the meaning given that term in § 536.103 of this chapter, except paragraph (2) of that definition should be used for the purpose of comparing grade or levels of work in making reasonable offer determinations in all situations not covered by paragraph (1) of that definition.

[48 FR 38786, Aug. 26, 1983. Redesignated and amended at 58 FR 49179, Sept. 22, 1993; 70 FR 31315, May 31, 2005; 73 FR 66156, Nov. 7, 2008]

### **Subpart F—Survivor Annuities**

SOURCE: 50 FR 20070, May 13, 1985, unless otherwise noted.

#### **ORGANIZATION AND STRUCTURE OF REGULATIONS ON SURVIVOR ANNUITIES**

#### **§ 831.601 Purpose and scope.**

(a) This subpart explains the annuity benefits payable in the event of the

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death of employees, retirees, and Members; the actions that employees, retirees, Members, and their current spouses, former spouses, and eligible children must take to qualify for survivor annuities; and the types of evidence required to demonstrate entitlement to provide survivor annuities or qualify for survivor annuities.

(b) Unless otherwise specified, this subpart, except §§ 831.682 and 831.683 and the provisions relating to children's survivor annuities, only applies to employees and Members who retire under a provision of law that permits election of a reduced annuity to provide a survivor annuity.

[55 FR 9099, Mar. 12, 1990, as amended at 58 FR 52880, Oct. 13, 1993]

### § 831.602 Relation to other regulations.

(a) Part 838 of this chapter contains information about former spouses' entitlement to survivor annuities based on provisions in court orders or court-approved property settlement agreements.

(b) Subpart T of this part contains information about entitlement to lump-sum death benefits.

(c) Parts 870, 871, 872 and 873 of this chapter contain information about coverage under the Federal Employees' Group Life Insurance Program.

(d) Part 890 of this chapter contains information about coverage under the Federal Employees Health Benefits Program.

(e) Section 831.109 contains information about the administrative review rights available to a person who has been denied a survivor annuity or an opportunity to make an election under this subpart.

(f) Subparts C and U of this part contain information about service credit deposits by survivors of employees or Members.

[50 FR 20070, May 13, 1985, as amended at 51 FR 31931, Sept. 8, 1986; 58 FR 43493, Aug. 17, 1993]

### § 831.603 Definitions.

As used in this subpart—

*CSRS* means subchapter III of chapter 83 of title 5, United States Code.

*Current spouse* means a living person who is married to the employee, Mem-

ber, or retiree at the time of the employee's, Member's, or retiree's death.

*Current spouse annuity* means a recurring benefit under CSRS that is payable (after the employee's, Member's, or retiree's death) to a current spouse who meets the requirements of § 831.642.

*Deposit* means a deposit required by the Civil Service Retirement Spouse Equity Act of 1984, Pub. L. 98-615, 98 Stat. 3195. *Deposit*, as used in this subpart does not include a service credit deposit or redeposit under sections 8334(c) or (d) of title 5, United States Code.

*First regular monthly payment* means the first annuity check payable on a recurring basis (other than an estimated payment or an adjustment check) after OPM has initially adjudicated the regular rate of annuity payable under CSRS and has paid the annuity accrued since the time of retirement. The "first regular monthly payment" is generally preceded by estimated payments before the claim can be adjudicated and by an adjustment check (including the difference between the estimated rate and the initially adjudicated rate).

*Former spouse* means a living person who was married for at least 9 months to an employee, Member, or retiree who performed at least 18 months of creditable service in a position covered by CSRS and whose marriage to the employee was terminated prior to the death of the employee, Member, or retiree. Except in §§ 831.682 and 831.683, *former spouse* includes only persons who were married to an employee or Member on or after May 7, 1985, or who were the spouse of a retiree who retired on or after May 7, 1985, regardless of the date of termination of the marriage.

*Former spouse annuity* means a recurring benefit under CSRS that is payable to a former spouse after the employee's, Member's, or retiree's death.

*Fully reduced annuity* means the recurring payments under CSRS received by a retiree who has elected the maximum allowable reduction in annuity to provide a current spouse annuity and/or a former spouse annuity or annuities.

*Insurable interest annuity* means the recurring payments under CSRS to a retiree who has elected a reduction in